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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,545	06/25/2003	Victor R. Blake	350078.407	5251

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
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EXAMINER

MURDOUGH, JOSHUA A

ART UNIT	PAPER NUMBER
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3621

MAIL DATE	DELIVERY MODE
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10/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,545

Applicant(s)

BLAKE ET AL.

Examiner

JOSHUA MURDOUGH

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6-10,12,13,15-17,37-40 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-10,12,13,15-17,37-40 and 42-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendment to the claims received 25 June 2008.
2. Claims 1, 2, 4, 6-10, 12, 13, 15-17, 37-40, and 42-44 are pending and have been examined.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 13 rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 13 recites, "the at least one network resource sets stores a maximum limit" in lines 3-4. One of ordinary skill in the art would not understand the phrase "sets stores." It would make more sense if "sets" had been removed in the amendment. The Examiner has interpreted that "sets" was removed with the adjacent text when applying the prior art.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 7, 8, 10, 12, 13, 16, 37, 38, 40, 42, and 44 are rejected under 35

U.S.C. §102(b) as being anticipated by Freeman (US 2001/0049717).

8. As to claims 1, 12, 13, 37, and 42, Freeman shows:

a. A method, comprising:

b. receiving a request to access a network resource **510** accessible through each of a plurality of servers (Figure 1), wherein licenses to access said network resource ("connection licenses," [0366]) are distributed to each respective said servers **180** and wherein a total of said licenses distributed to said servers corresponds to a maximum limit of allowed licensed connections to said network resource ("control the number of user connections allowed," [0366]);

c. determining whether granting the requested access to the network resource provides a number of licensed connections equal to or less than said maximum limit ("control the number of user connections," Id.);

d. granting the requested access to the network resource if it is determined that the granting of the requested access provides said number of licensed connections equal to or less than said maximum limit ("control the number of user connections allowed," [0366]); and

e. using load balancing to direct said granted requested access to one of said servers having at least one of its said respective licenses available for said requested access [0348+].

9. As to claim 2, Freeman further shows:

said network resource includes an application available from each of said servers [0350].
10. As to claim 7, Freeman further shows:

keeping at least one of a local log or syslog to track information associated with licensed connections to the network resource [0362].
11. As to claims 8, 16, 40, and 44; Freeman further shows:

comprising providing third-party (administration) access to at least one of the local log or syslog to allow licenses associated with the tracked information stored therein to be remotely managed or monitored [0362].
12. As to claim 10, Freeman further shows:

associated maximum limits of allowed licensed connections, of a plurality of network resources, are arranged according to a parent/child arrangement [0170] ("ParentID;" if there is a parent, there is also a child.).
13. As to claim 38, Freeman further shows:

said network device is a switch **204** adapted to direct said requested access to said one of said servers **180**, which are communicatively coupled to said switch (Figure 2A).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 4, 6, 15, 39, and 43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Freeman in view of Bullard (US 6,405,251).

16. As to claims 4, 6, 15, 39, and 43, Freeman discloses as discussed above in regards to claims 1, 12, 37, and 42.

17. Freeman does not expressly disclose:

f. said servers include mail servers and wherein said licenses distributed to said servers include licenses allocated to a plurality of said mail servers based on usernames assigned to said mail servers; or

g. said servers include mail servers and wherein said licenses distributed to said servers include license allocated to said mail servers based on geographic information associated with users that request access to the network resource.

18. However, Bullard teaches:

h. said servers include mail servers (Column 5, lines 52-53) and wherein said licenses distributed to said servers include licenses allocated to a plurality of said mail servers based on usernames assigned to said mail servers (Column 21, lines 13-15); and

- i. said servers include mail servers (Column 5, lines 52-53) and wherein said licenses distributed to said servers include license allocated to said mail servers based on geographic information associated with users that request access to the network resource (Column 14, lines 47-52).
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Freeman to make the servers mail servers with the usernames and geographic information as described by Bullard. This would allow for better arrangements of the servers due to the increased information about the servers, resulting in more efficient communications as this information indicates potential communications delays due to distance and hops.
20. Claims 9 and 17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman in view of Eggleston (US 5,764,899).
21. As to claims 9 and 17, Freeman discloses as discussed above regarding claims 1 and 12.
22. Freeman does not expressly show providing a warning message if said maximum limit of licensed connections is getting near.
23. However, Eggleston teaches providing a warning message if said maximum limit of licensed connections is getting near (Column 4, lines 1-3).
24. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Freeman to include a warning as the number of connections approaches the limit, in order to, allow better monitoring of traffic and to give more advanced warning that the licensed number of connections may need to be increased.

Response to Arguments

25. Applicant's arguments with respect to claims 1, 2, 4, 6, 8-10, 12, 13, 15, 16, 37-40, and 42-44 have been considered but are moot in view of the new ground(s) of rejection.

26. Applicant's arguments filed 25 June 2008 have been fully considered but they are not persuasive.

27. Applicants argue:

“Eggleston however, he measures his use control based on time/charges, rather than the number of connections--thus, Eggleston will provide a warning if the time/charge limit is being approached by a particular connection, even if the server has additional capacity to maintain and/or take on many more other connections” (Remarks, Page 14, Paragraph 4).

28. Examiner's response:

29. In the paragraph spanning columns 3 and 4 Eggleston says, “A further rate governor responsive to the main rate governor, may also be used at the remote unit. By means of this rate governor a mechanism is provided for both limiting user or group data transfer beyond a set amount, as well as providing alerts to users as the limit is approached.” The main rate governor is the one dealing with the time and/or charges as mentioned by Applicants. However the further rate governor deals with users and group data transfers.

Conclusion

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

31. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

32. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

33. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/ANDREW J. FISCHER/
Supervisory Patent Examiner, Art Unit 3621